

REMARKS

The numbering of claims is now in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. Per Examiner's suggestion, misnumbered claim 7.5 has been renumbered as claim 8, therefore all the claims are renumbered as 1 - 15; Also, claim 13 depends on claim 9 and claim 14 depends on claim 10.

Claims 1 - 5 have been rejected under 35 U.S.C. 102 (b) as being anticipated by Chan et al (US Patent No. 5762076).

Claims 1 - 5 have been canceled in the above-amendment though some components of the cancelled claims may be incorporated into the new and/or amended claims.

Examiner notes that Chan discloses a hair device comprising a top concave upper portion for gathering upper portion of hair in position and holding the hair in a desired position, a lower portion having at least two teeth for combing action and holding larger amounts of hair in place, wherein the lower portion being at least as long as the upper portion.

Chan teaches a rotatable hinge comprised of a wire-form that resembles "frog legs" that pivot about two hinge bosses molded or bonded onto the opposite portion.

The claims, as amended, utilize a single piece of material and utilize a living hinge, also sometimes called a flexure, to keep the upper and lower portions together and provide a catch for hair as the hair piece is run through hair. Additionally, Chan teaches that a user can pinch the "frog legs" together to join the upper and lower portions at their open-able ends thus forming a spring style latch. Opening and closing of the spring style latch is accomplished by a user pinching the "frog legs" together thus allowing them to clear the latch bosses that are integrated into the opposite portion.

Though claims 1 - 5 have been cancelled, in view of the amendments to the claims and for the reasons set forth above, the withdrawal of the 35 U.S.C. 102(b) rejection of Chan is requested and the allowance of the amended and new claims is solicited.

Claims 6 - 15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al (US Patent No. 5762076) in view of Solomon (US Patent No. 3595249).

Chan et al discloses a top plate that is substantially rigid and a lower "frog leg" portion made from flexible wire. The flexible wire portion pinches gathered hair and then a user compresses the flexible wire portion together to engage with the upstanding receptor hooks protruding from the top plate. Chan clearly does not teach a concave portion capable of snap-action to a concave or convex position. Nor does Chan teach a flexible lower portion capable of conforming with the concave upper portion when in the closed position. Additionally, Chan's invention comprises at least two components.

Solomon claims a rigid plastic one-piece barrette that is integrally attached by a living hinge. Solomon's closure system incorporates a latch that physically catches the top portion to the lower portion with an interference fit and does not teach a concave portion that is capable of conforming a flexible opposite portion while in the closed position. Additionally, the closure retaining system of the present invention relies on the concaved shape to retain the upper and lower portions together created by a user snap-acting the hair clip together. Oppositely, the present invention is opened by a user snap-acting the concaved portion to a convex portion thus allowing the hair clip to release the held hair. In contrast, Solomon opens his hair clip as follows: "To remove the barrette, a separating force is applied to the end 28 of arm 18 and body 12, so that strut 30 is yieldingly forced past projection 38, allowing arm 18 to open and automatically swing away from body 12." The present invention does not yielding force the clip to the open or closed position.

For the above reasons, it was not obvious to combine the teachings of Solomon and Chan et al to create a concave and convex hairclip that is held in the closed position by the spring force created by a concaved portion abutted against its opposite fingered portion. In view of the amendments to the claims and for the reasons set forth above, the withdrawal of the rejection of the remaining claims 6 - 15 as unpatentable over Chan et al and Solomon under 35 U.S.C. 103(a) is requested and the allowance of all claims, as amended, is solicited.

Respectfully submitted,

A handwritten signature in cursive script that reads "J. Marc Edwards". The signature is written in black ink and is positioned above the printed name.

J. Marc Edwards

52,851

Agent for Applicant